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September 3, 2021

In re: Google Digital Advertising Antitrust Litigation, No. 1:21-md-03010 (PKC)

Dear Judge Castel:

We represent defendant Facebook, Inc. in the above-entitled multi-district litigation. In accordance with Rule 1.A of the Individual Practices of Judge P. Kevin Castel, Facebook notes that the next scheduled conference before the Court is Thursday, October 14, 2021 at 2:30 p.m. We write to address two issues concerning the Court's August 13, 2021 Pre-Trial Order No. 1 (ECF No. 4).

First, we note that Facebook is not a party to the *Texas v. Google* action. We understand from the Court's proposed case management plan that the Court would first address Google's motion to dismiss the operative complaint in that action, and that the pleadings in the various private actions—including those that name Facebook as a defendant—would be settled after the resolution of that motion. It is, of course, important that Facebook be afforded a full and fair opportunity to present any arguments it will have through a motion to dismiss those private complaints at the appropriate time. We believe that the Court's Pre-Trial Order No. 1 already contemplates that Facebook would be afforded that right.

Second, Facebook agrees with the Court that a stay of discovery is appropriate. Although Facebook expects that the parties will have an opportunity to be heard following the Court's decision on the motion to dismiss in the *Texas* matter, Facebook submits that a stay should remain in place at least through that decision, as the Court proposed in its Pre-Trial Order No. 1. As the Court is aware, discovery in complex antitrust cases, such as this one, is particularly expensive and time-consuming, *see Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007), and courts in this district regularly stay discovery in antitrust cases pending complete resolution of motions to dismiss. *See, e.g., Spinelli v. N.F.L.*, No. 13 CIV. 7398 (RWS), 2015 WL 7302266, at *2 (S.D.N.Y. Nov.

17, 2015); *Integrated Sys. & Power, Inc. v. Honeywell Int'l, Inc.*, No. 09 CV 5874 (RPP), 2009 WL 2777076, at *1 (S.D.N.Y. Sept. 1, 2009).

We look forward to addressing these and any other issues with the Court on October 14, 2021.

Respectfully submitted,



Kevin J. Orsini

The Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

cc: All Counsel of Record (via CM/ECF)